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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

ROSEN, NICHOLAS D

ART UNIT PAPER NUMBER

3625

DATE MAILED: 10/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/053,416	Applicant(s) CLAREMONT ET AL.	
	Examiner Nicholas D. Rosen	Art Unit 3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-13, 15-20, 22-25, 27-30 and 32-35 is/are rejected.
- 7) ☒ Claim(s) 7, 14, 21, 26, 31 and 36 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/23/2002</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1-36 have been examined.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 22-24 (Hayward)

Claims 22 and 23 are rejected under 35 U.S.C. 102(e) as being anticipated by Hayward et al. (U.S. Patent 6,629,134). As per claim 22, Hayward discloses a method for ordering at least one consumable for a device, the method comprising: submitting an order with the device for the at least one consumable for the device (column 5, lines 10-18; column 7, line 67, through column 8, line 38); processing the order for the at least one consumable, wherein the processing comprises retrieving information about the device that placed the order (column 8, line 60, through column 9, line 10); and determining a distribution of at least a portion of a payment for the order based on the retrieved information (column 8, line 60, through column 9, line 10).

As per claim 23, Hayward discloses indicating a status of the at least one consumable, wherein the submitting is based on the indicating (Figures 3 and 4; column 5, line 10, through column 6, line 4; column 7, line 67, through column 8, line 38).

Claim 24 is rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over, Hayward et al. (U.S. Patent 6,629,134). Hayward can be read as supplying the at least one consumable based on the processed order (column 8, lines 34-38; column 8, line 60, through column 9, line 10). Even if, ad arguendo, Hayward is not sufficiently explicit about supplying the consumable, this is held to be obvious, because if one received and processed an order, and, in one embodiment, sent a shipping order and received a commission, but did not supply the consumable, one would be committing fraud, which is not a good long-term business strategy.

Claims 32-34 (Hayward)

Claims 32 and 33 are rejected under 35 U.S.C. 102(e) as being anticipated by Hayward et al. (U.S. Patent 6,629,134). As per claim 32, Hayward discloses a system ordering at least one consumable for a device, the method comprising: an ordering system that submits an order with the device for the at least one consumable for the device (column 5, lines 10-18; column 7, line 67, through column 8, line 38); a processing system that processes the order for the at least one consumable, wherein the processing system retrieves information about the device that placed the order (column 8, line 60, through column 9, line 10); and a payment distribution system that determines a distribution of at least a portion of a payment for the order based on the retrieved information (column 8, line 60, through column 9, line 10).

As per claim 33, Hayward discloses an indication system that indicates a status of the at least one consumable, wherein the submitting is based on the indicating

(Figures 3 and 4; column 5, line 10, through column 6, line 4; column 7, line 67, through column 8, line 38).

Claim 34 is rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Hayward et al. (U.S. Patent 6,629,134). Hayward can be read as supplying the at least one consumable based on the processed order (column 8, lines 34-38; column 8, line 60, through column 9, line 10). Even if, ad arguendo, Hayward is not sufficiently explicit about supplying the consumable, this is held to be obvious, because if one received and processed an order, and, in one embodiment, sent a shipping order and received a commission, but did not supply the consumable, one would be committing fraud, which is not a good long-term business strategy.

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Claims 1-3 (Haines)

Claims 1-3 are rejected under 35 U.S.C. 102(e) as being anticipated by Haines et al. (U.S. Patent Application Publication 2002/0072998). As per claim 1, Haines discloses a method comprising: displaying with a device a status of a plurality of consumables in the device and information about ordering at least one of the

consumables when at least one condition occurs (paragraphs 54-56, 57, 59, 64, 65, 80, and 86); monitoring with the device for an input indicating that an order for the at least one consumable has been placed (paragraph 85); and submitting with the device the order for the at least one consumable to a supplier if the monitored input indicates at order should be placed (paragraph 85).

As per claim 2, Haines discloses that the at least one condition is receipt by the device of a request for at least one of the status of consumables and information about ordering the at least one of the consumables (paragraphs 55 and 58).

As per claim 3, Haines discloses that the at least one condition is an indication in the device that replacement of the at least one of the consumables is recommended based on at least one criterion (paragraphs 54, 57, and 86).

Claims 15-17 (Haines)

Claims 15-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Haines et al. (U.S. Patent Application Publication 2002/0072998). As per claim 15, Haines discloses a system comprising: a display system that displays a status of a plurality of consumables for the device and information about ordering at least one of the consumables when at least one condition occurs (paragraphs 54-56, 57, 59, 64, 65, 80, and 86); a monitoring system with the device that monitors for an input indicating that an order for the at least one consumable has been placed (paragraph 85); and an ordering system with the device that submits the order for the at least one consumable to a supplier if the monitored input indicates at order should be placed (paragraph 85).

As per claim 16, Haines discloses that the at least one condition is receipt by the device of a request for at least one of the status of consumables and information about ordering the at least one of the consumables (paragraphs 55 and 58).

As per claim 17, Haines discloses that the at least one condition is an indication in the device that replacement of the at least one of the consumables is recommended based on at least one criterion (paragraphs 54, 57, and 86).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-6 (Hayward)

Claims 1, 2, 3, 4, 5, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayward et al. (U.S. Patent 6,629,134). As per claim 1, Hayward discloses a method comprising: displaying with a device a status of at least one consumable in the device, and information about ordering at least one of the consumables when at least one condition occurs (Figures 3 and 4; column 5, line 10, through column 6, line 4); monitoring with the device for an input indicating that an order for at least one of the consumables has been placed (column 7, line 67, through column 8, line 38); and submitting with the device the order for at least one consumable to a supplier if the monitored input indicates an order should be placed (column 7, line 67, through column 8, line 38). Hayward does not expressly disclose displaying the status of a plurality of consumables at one time, but does disclose displaying the status of various consumables, such as paper and magenta ink (column 5, line 10, through column 6, line 4). Even if, *ad arguendo*, this does not constitute displaying a status of a plurality of consumables, it is considered obvious to one of ordinary skill in the relevant art to duplicate parts for multiple effects (*St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8, 11; 549 F.2d 833 (7th Cir. 1977); *In re Harza*, 124 USPQ 378, 380; 274 F.2d 669 (CCPA 1960)). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to display the status of a plurality of consumables, for the obvious advantage of conveniently notifying a user of reason to order a plurality of consumables that may be in short supply.

As per claim 2, Hayward discloses that at least one condition is receipt by the device of a request for at least one of the status of consumables and the information

about ordering at least one of the consumables (Figures 3 and 4; column 5, line 10, through column 6, line 4).

As per claim 3, Hayward discloses that the at least one condition is an indication in the device that replacement of the at least one of the consumables is recommended based on at least one criterion (Figures 3 and 4; column 5, line 10, through column 6, line 4).

As per claim 4, Hayward discloses confirming the order before submitting the order (column 7, line 67, through column 8, line 38).

As per claim 5, Hayward discloses processing the order for the at least one of the consumables, wherein the processing comprises retrieving information about the device that placed the order (column 8, line 60, through column 9, line 10); and supplying the at least one of the consumables based on the processed order (column 8, lines 34-38; column 8, line 60, through column 9, line 10).

As per claim 6, Hayward discloses determining a distribution of at least a portion of the payment based on the retrieved information (column 8, lines 60-68).

Claims 8-13 (Hayward)

Claims 8, 9, 10, 11, 12, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayward et al. (U.S. Patent 6,629,134). Claims 8, 9, 10, 11, 12, and 13 are parallel to claims 1, 2, 3, 4, 5, and 6, respectively, and rejected on essentially the same grounds. Hayward repeatedly refers to an application program for causing the computer to perform its functions (column 3, lines 43-63; column 5, lines 10-34; column 7, line 49, through column 8, line 24; column 8, line 46, through column 9, line 10), a

program that would presumably have to be stored on a medium, and Hayward expressly recites a computer readable medium in claims 11-15.

Claims 15-20 (Hayward)

Claims 15, 16, 17, 18, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayward et al. (U.S. Patent 6,629,134). Claims 15, 16, 17, 18, 19, and 20 are parallel to claims 1, 2, 3, 4, 5, and 6, respectively, and rejected on essentially the same grounds.

Claim 25 (Hayward)

Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hayward et al. (U.S. Patent 6,629,134) as applied to claim 22 above, and further in view of official notice. Hayward does not disclose that the retrieved information identifies a retailer that sold the device, but official notice is taken that it is well known to maintain and retrieve records of which dealer sold a device. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce for the retrieved information to identify a retailer that sold the device, for such advantages as determining what advertising had been effective, who was responsible for repairing or replacing a device under warranty, etc.

Claims 27-30 (Hayward)

Claims 27, 28, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayward et al. (U.S. Patent 6,629,134). As per claim 27, Hayward

discloses a method for ordering at least one consumable for a device, the method comprising: submitting an order with the device for the at least one consumable for the device (column 5, lines 10-18; column 7, line 67, through column 8, line 38); processing the order for the at least one consumable, wherein the processing comprises retrieving information about the device that placed the order (column 8, line 60, through column 9, line 10); and determining a distribution of at least a portion of a payment for the order based on the retrieved information (column 8, line 60, through column 9, line 10).

Hayward does not expressly disclose a single computer readable medium having stored thereon instructions that cause a processor to perform the recited steps. Hayward repeatedly refers to an application program for causing the computer to perform its functions (column 3, lines 43-63; column 5, lines 10-34; column 7, line 49, through column 8, line 24; column 8, line 46, through column 9, line 10), a program that would presumably have to be stored on a medium, and Hayward expressly recites a computer readable medium in claims 11-15. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to use such a computer readable medium, for the obvious advantage of causing the computer or computers to perform its/their recited functions.

As per claim 28, Hayward discloses an indication system that indicates a status of the at least one consumable, wherein the submitting is based on the indicating (Figures 3 and 4; column 5, line 10, through column 6, line 4; column 7, line 67, through column 8, line 38).

As per claim 29, Hayward discloses supplying the at least one of the consumables based on the processed order (column 8, lines 34-38; column 8, line 60, through column 9, line 10).

Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hayward et al. (U.S. Patent 6,629,134) as applied to claim 27 above, and further in view of official notice. Hayward does not disclose that the retrieved information identifies a retailer that sold the device, but official notice is taken that it is well known to maintain and retrieve records of which dealer sold a device. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce for the retrieved information to identify a retailer that sold the device, for such advantages as determining what advertising had been effective, who was responsible for repairing or replacing a device under warrantee, etc.

Claim 35

Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hayward et al. (U.S. Patent 6,629,134) as applied to claim 32 above, and further in view of official notice. Hayward does not disclose that the retrieved information identifies a retailer that sold the device, but official notice is taken that it is well known to maintain and retrieve records of which dealer sold a device. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce for the retrieved information to identify a retailer that sold the device, for such advantages as determining what advertising had been effective, who was responsible for repairing or replacing a device under warrantee, etc.

Claims 4, 5, and 6 (Haines)

Claims 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Haines et al. (U.S. Patent Application Publication 2002/0072998) as applied to claim 1 above, and further in view of official notice. Haines does not expressly disclose confirming the order before the submitting of the order, but official notice is taken that it is well known to confirm orders before submitting them. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to confirm the order, for the obvious advantage of assuring that the user was ordering what he intended to order, and doing so in the fashion he wished.

Claims 5 and 6 rejected under 35 U.S.C. 103(a) as being unpatentable over Haines et al. (U.S. Patent Application Publication 2002/0072998) as applied to claim 1 above, and further in view of Bezos (U.S. Patent 6,029,141). As per claim 5, given that Haines discloses a system for ordering consumables, processing the order and supplying the ordered consumables follows. Haines does not disclose that the processing comprises retrieving information about the device that placed the order, but Bezos discloses retrieving information about the computer that places an order (column 7, line 61, through column 8, line 31). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to retrieve such information, for the obvious advantages of shipping products to the right location, charging the right account, etc., and for the stated advantage of paying a commission to the right referring associate.

As per claim 6, Bezos further discloses determining a distribution of at least a portion of the payment based on the retrieved information (Abstract; column 7, line 61,

through column 8, line 31). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to determine a distribution of at least a portion of the payment based on the retrieved information for the stated advantage of arranging to pay commissions to associates who help bring in business.

Claims 8-13 (Haines)

Claims 8, 9, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haines et al. (U.S. Patent Application Publication 2002/0072998). Claims 8, 9, and 10 are parallel to claims 1, 2, and 3, respectively, and rejected on essentially the same grounds. Haines repeatedly refers to a program for causing the computer to perform its functions (e.g., paragraphs 8, and 10; claims 1-13, etc.), a program that would presumably have to be stored on a medium.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Haines et al. (U.S. Patent Application Publication 2002/0072998) in view of official notice.

Claim 11 is parallel to claim 4, and rejected on essentially the same grounds.

12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haines et al. (U.S. Patent Application Publication 2002/0072998) in view of Bezos et al. (U.S. Patent 6,029,141). Claims 12 and 13 are parallel to claims 5 and 6, respectively, and rejected on essentially the same grounds.

Claims 15-20 (Haines)

Claims 15, 16, 17, 18, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haines et al. (U.S. Patent Application Publication 2002/0072998) in combination with official notice (for claim 4) and Bezos et al. (U.S. Patent 6,029,141) (for claim 5 and 6). Claims 15, 16, 17, 18, 19, and 20 are parallel to claims 1, 2, 3, 4, 5, and 6, respectively, and rejected on essentially the same grounds.

Claims 22-25 (Haines)

Claims 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haines et al. (U.S. Patent Application Publication 2002/0072998) in view of Bezos et al. (U.S. Patent 6,029,141). As per claim 22, Haines discloses a method for ordering at least one consumable for a device, the method comprising: submitting an order with the device for the at least one consumable for the device (Abstract; paragraph 85). Haines is not explicit about processing the order, and does not disclose that the processing comprises retrieving information about the device, nor determining a distribution of at least a portion of a payment for the order based on the retrieved information, but Bezos discloses this (Abstract; column 7, line 61, through column 8, line 31). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to determine a distribution of at least a portion of the payment based on the retrieved information for the stated advantage of arranging to pay commissions to associates who help bring in business.

As per claim 23, Haines discloses indicating a status of the at least one consumable, wherein the submitting is based on the indicating (paragraphs 54, 55, and 85)

As per claim 24, given that Haines discloses a system for replenishing consumables, supplying consumables based on orders follows.

Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Haines and Bezos as applied to claim 22 above, and further in view of official notice. Haines does not disclose that the retrieved information identifies a retailer that sold the device, but official notice is taken that it is well known to maintain and retrieve records of which dealer sold a device. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce for the retrieved information to identify a retailer that sold the device, for such advantages as determining what advertising had been effective, who was responsible for repairing or replacing a device under warrantee, etc.

Claims 27-29 (Haines)

Claims 27-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haines et al. (U.S. Patent Application Publication 2002/0072998) in view of Bezos et al. (U.S. Patent 6,029,141); claim 30 is rejected further in view of official notice. Claims 27-30 are parallel to claims 22-25, respectively, and rejected on essentially the same grounds.

Claims 32-35 (Haines)

Claims 32-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haines et al. (U.S. Patent Application Publication 2002/0072998) in view of Bezos et al. (U.S. Patent 6,029,141); claim 35 is rejected further in view of official notice. Claims 32-35 are parallel to claims 22-25, respectively, and rejected on essentially the same grounds.

Allowable Subject Matter

Claim 7 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 14 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 21 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 26 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 31 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 36 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The closest prior art of record, Hayward et al. (U.S. Patent 6,629,134), discloses a method for ordering at least one consumable for a device, as set forth above in the rejection of claim 1 (and claims 8, 15, 22, 27, 32), and in particular discloses (as per claim 6, etc.) determining a distribution of at least a portion of the payment based on the retrieved information (column 8, lines 60-68). However, Hayward does not disclose that the retrieved information identifies a retailer that sold the device, and neither Hayward, Haines et al. (U.S. Patent Application Publication 2002/0072998), nor any other prior art of record discloses that determining the distribution allocates the at least a portion of the payment to the identified retailer. (This statement is made with particular reference to claim 7, but the other potentially allowable claims are allowable on essentially the same grounds.)

Regarding Information Disclosure Statement

Examiner has now considered the documents of record on the IDS received January 23, 2002. Examiner wishes to point out that U.S. Patent 6,106,409 was actually issued to Jackson, rather than to Beard et al., and appears to have nothing to do with Applicant's invention. Presumably, Applicant intended to include some other patent on the IDS.

Response to Arguments

Applicant's arguments filed August 8, 2005, have been fully considered but they are not persuasive. Applicants argue that none of the references relied upon, Hayward, Haines, or Bezos, discloses "submitting with the device the order for the at least one of the consumable to a supplier" as recited in claim 1, or parallel language in other independent claims. Applicants argue, instead, that Hayward discloses a system wherein a computer is located between a device and the supplier on a network; in ordering a consumable for the device (such as ink for a printer), a browser is opened on the computer, and an order is sent to the supplier's server via the browser, or else via e-mail. Applicants argue that such submission of an order with a computer is not the same as the recited submission with a device.

Examiner replies that the ordering process in Hayward can also be described as submitting with the device an order, since Hayward discloses a computer and peripheral operating as a system (column 5, lines 10-18; column 7, line 67, through column 8, line 38). Applicants' claims do not define the device as referring only to a printer or other peripheral; therefore, "device" can reasonably be interpreted as referring to the system comprising both the computer and the peripheral.

Similarly in Haines, "device" could be interpreted as the entire system (Figures 1 and 2), including one or a plurality of printers or other peripherals, one or a plurality of personal computers, and a server. From the perspective of an external seller, all of this may be regarded as one device.

Furthermore, claim 1 recites, "displaying with a device a status of a plurality of consumables," which supports Examiner's broad interpretation of "with a device," since in Applicants' invention, the display is not usually on the printer or other peripheral itself, but on an operator system which receives an indication of the status of consumables from the printer or other peripheral device. Thus, either "the device" should be read as comprising the operator system, or else "displaying with a device" should be read as "displaying on an operator system which receives information from the device itself."

It is proper in examining claims to give the claim language its broadest reasonable interpretation, and Applicants' claims do not specify that the order is transmitted to the supplier processing system over a network connection via the printer or other peripheral device with its own CPU and communication system, after an operator has approved the order on another computer, rather than being transmitted from a computer system comprising the printer or other peripheral which actually contains and uses up the consumables.

The common knowledge or well-known in the art statements in the previous office action are taken to be admitted prior art, because Applicants did not traverse Examiner's taking of official notice. In response to Applicants' request for additional clarification if official notice is beyond the scope of what is listed, Examiner responds that official notice was taken only that it is well known to maintain and retrieve records of which dealer sold a device, and that it is well known to confirm orders before submitting them. Additionally, in making obviousness rejections, Examiner drew conclusions which

might arguably be interpreted as involving a kind of unstated quasi-official notice, e.g., that committing fraud is not a good long-term business strategy.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Haines et al. (U.S. Patent 6,937,999) disclose recorder-assistance functionality levels (this is related but not identical to Haines et al., U.S. patent Application Publication 2002/0072998, which is relied upon in making rejections).

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas D. Rosen, whose telephone number is 571-272-6762. The examiner can normally be reached on 8:30 AM - 5:00 PM, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins, can be reached on 571-272-7159. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Non-official/draft communications can be faxed to the examiner at 571-273-6762.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nicholas D. Rosen
NICHOLAS D. ROSEN
PRIMARY EXAMINER

October 7, 2005